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The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of SC
101 Executive Center Dr., Suite 100
Columbia, SC 29210

Re: Workshop to discuss S.C. Code Ann. Reg. 103-823, including proposed Minimum Filing Requirements for future rate application filings
Docket No. 2020-247-A

Dear Ms. Boyd:

This letter is submitted on behalf of Dominion Energy South Carolina, Inc. (“DESC”) in response to a February 26, 2021, email from Ms. Afton Ellison of the Staff of the Public Service Commission of South Carolina (the “Commission”) concerning new or amended exhibits that might be required as a part of future rate case applications (the “Minimum Filing Requirements” or “MFRs”).

DESC respectfully requests that the Commission reject any proposal to expand the list of exhibits required in rate case applications. Parties are already addressing the need for timely rate case information in a constructive and efficient manner. The new regulation would short-circuit that process. Specifically, it would make the rate proceedings more expensive and inefficient, not less so, and would ultimately result in higher costs to customers with little or no benefit to them.

An example of this constructive approach is what was done at the beginning of the DESC 2020 rate case (Docket No. 2019-125-E). In the months before that case was filed, ORS compiled and provided DESC with a list of potentially applicable requests for data and information. Based on this pre-filing preparation, ORS was able to serve its initial discovery on DESC *four days*

*before the application filing.*¹ DESC responded to that request *three days* after the date of the application. ORS served a second and more extensive set of discovery *six days* after the date of the application. DESC responded to that request approximately two weeks later.

In all, the pre-application discovery coordination allowed ORS to propound approximately 190 detailed interrogatories and requests for production of documents (including subparts) before six days had elapsed since the date of the application. These approximately 190 requests were not generic requests but were specifically tailored to the needs of the case. They were then shaped by discussions with ORS concerning the form and content of information available in DESC's accounting and operating data system and responses were structured to generate information in the form and format relevant to ORS's needs. The initial responses to these approximately 190 requests included approximately 24,000 pages of documents and were electronically conveyed to ORS within 20 days of the commencement of the case.²

ORS was not the only party that benefitted from this approach. As other parties intervened, most of them filed discovery requesting the material that had been previously provided to ORS and other parties. The information contained in the 24,000 pages of initial ORS discovery responses could then be provided to them. In this way, an extensive body of discovery responses tailored to the specific needs of the case was available to be shared with all parties approximately 20 days after the application was filed.

While rate cases are relative rare events (there was an eight-year gap between the 2020 rate case and its predecessor), ORS's surveillance of South Carolina utilities is continuous. Specifically, since 1974, DESC has filed quarterly surveillance reports with this Commission and ORS. These reports provide current data concerning DESC's capital structure, working capital, debt, interest expense, equity component, sales, revenues, expenses, earnings, ratio of earning to fixed charges, rate base, adjustments to rate base, taxes and adjustments to income taxes, amortization accounts, depreciation reserves, and any changes to them. Additionally, the reports itemize all pro forma adjustments to these accounts based on past rate-case decisions, accounting orders issued by the Commission and general regulatory principles that DESC believes apply. This information is subject to review and audit by ORS, and ORS can file audit information requests when it seeks a formal explanation of these matters. As a general matter, informal dialogue and provisions of supplemental information in response to any questions ORS may have are also common.

This ongoing review of financial and operating results is further supplemented by a comprehensive review of electric generation operations and electric sales information conducted in each annual Fuel Clause proceeding. A comprehensive review and evaluation of DESC finances generally and gas operations specifically occurs in each year as part of the Natural Gas Rate

¹ The application in Docket No. 2020-125-E was filed effective August 15, 2020. ORS's initial discovery, its First and Continuing Request for Books, Records, and Other Information in Docket No. 2020-125-E was dated August 11, 2020 and issued pursuant to S.C. Code Ann. §§ 58-4-50(A)(2), 58-4-55(A), 58-27-160, 58-27-1570, and 58-27-1580 (Supp. 2019).

² The Consumer Advocate, has overlapping responsibilities for representing consumer interests and has every right to coordinate its discovery needs with ORS both before and after an application is filed.

Stabilization Act review and audit. This level of ongoing surveillance allows ORS to identify questions prior to an application being filed and to propound targeted, material discovery responses early in each case.

The Consumer Advocate who is the primary proponent of expanding the application requirements here, complains about the abbreviated time for discovery in rate proceedings. But in the 2020 DESC rate proceeding, the Consumer Advocate did not avail itself of discovery in a timely way. Instead, it waited from August 15, 2020 to October 7, 2020 to file any discovery requests whatsoever. Any timing issue that the Consumer Advocate confronted could have been avoided by requesting discovery including the prior responses to ORS in a timely manner.

In sum, the process for accelerating rate case discovery that ORS and DESC have put in place creates extensive, timely, case-specific information that can be made available to all parties within weeks of the case being filed. As a result, there will be little if any practical benefit from substituting for this approach a new regulation imposing a list of static, one-size-fits-all application exhibits pre-defined by that regulation. Additionally, as always is the case with new regulations, there will be costs in complying with them. Customers will ultimately pay these costs, which are unnecessary.

It is also clear from the comments of certain parties that they have a very limited understanding of what is involved in preparing and filing a rate case. The decision to file a rate case is one of the most important decisions made by a utility. It is never made lightly. Rate cases are filed when current financial results require rates to be adjusted to reverse declining financial metrics and ensure continued access to capital on reasonable terms. Whether a rate proceeding will be filed is not fully known until the books have closed on the test period (a process that takes a month and a half or more after the close of the test period), and senior management has reviewed that information and made a decision that a rate case is financially required. The precise contours of a rate case, however, are not known until even later, after cost of service studies have been run using test period data, and the specific accounting adjustments, rates and rate designs have been identified, quantified and reviewed.

For this reason, rate filings are not subject to being prepackaged as some comments in this proceeding would seem to assume. The weeks before a rate case filing are periods of intense and focused work by the departments involved in these efforts. Adding to their tasks the requirement to prepare scores of potentially unnecessary set-piece exhibits would interfere with their ability to devote time to coordinating data requests with ORS and preparing to answer them promptly after the filing is made. Such requirements could also interfere with the timely filing of the rate request itself. The alternative would be to increase the permanent staffing of the rate department, which would add unnecessary costs to the utility, costs that customers will eventually be required to pay.

For these reasons, DESC opposes any new regulation that would expand the list of exhibits required in rate case applications. The need for such a regulation has not been demonstrated. The costs, however, are undeniable. The direct coordination that is currently taking place between DESC and ORS is the correct approach. DESC respectfully submits that the Commission should

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encourage the use of that approach to the fullest rather than attempting to supplant it with a mandatory, costly and disruptive list of pre-determined application exhibits.

Ms. Ellison's email asked for specific responses to approximately 150 suggested schedules that might be included as mandatory application exhibits. A response was required in one week. It has not been possible to review and respond to this extensive list of exhibits in the time provided. DESC reserves its right to comment later, if necessary, when specific regulations are proposed in draft form under S.C. Code Ann. §§ 1-23-110 *et seq.*

Thank you for the opportunity to comment on this matter.

Respectfully submitted,

Womble Bond Dickinson (US) LLP

/s/Belton Zeigler
Belton T. Zeigler

cc: All parties of record